

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

February 18, 1997 LB 453

business of the individual, my constituent, led to a lot of problems in his life. And he came to talk to myself and Scott Moore, who is the Secretary of State, who oversees this area, and suggested that we take a look at how we handle trade names, trademarks, so that there's a chance for companies, when there's a similar sounding name being suggested for a trade name, can have a chance to respond to that to the Secretary of State. So this bill sets up sort of a waiting period, in a sense, for...don't get worried, Senator Schellpeper, a waiting period for trade name, so that there's a 60-day period in which the public can respond to it. The committee amendment, which will be coming up, would provide then 30 days, if the Secretary of State says that there's a conflict and says no to the new trade name, or suggests that there's a problem, that there's a response from the existing company or from the proposing company that there is in fact no problem. So this sets up a system where existing small businesses or any business that has a trade name, has a chance to respond if somebody wants to come up with another name similar sounding so the Secretary of State has a chance to review and make a decision. The original bill also provides for legal fees for the individual who challenges this, if they win the case, because the small businessperson that came to me was not able to afford attorney fees, and the prospect of going to court was very difficult. So if the chance was there to cover the attorney fees for this small businessperson, that would have been advantageous in this case and I think for others as well. The bill also includes punitive damages, but you'll hear, when the committee amendment comes up, that that will be taken out and that would be changed and is agreeable to me. With that, that's the summary of the bill and I'll be happy to answer questions.

SPEAKER WITHEM: There are committee amendments, I understand. Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. There are two basic committee amendments, although there are...they appear in three different places. The original bill that Senator Wesely brought to us allowed for punitive damages with the damages going to the Permanent School Fund. But from the Abel v. Conover case, in 1960, punitive damages are generally not allowed in the state, unless the money goes to the